

AMENDED IN ASSEMBLY AUGUST 10, 2006

AMENDED IN ASSEMBLY AUGUST 7, 2006

AMENDED IN SENATE MAY 11, 2006

AMENDED IN SENATE MAY 2, 2006

## SENATE BILL

**No. 1696**

---

---

**Introduced by Senators Dunn and Speier**

February 24, 2006

---

---

An act to add Section 421 to the Penal Code, relating to the public peace.

### LEGISLATIVE COUNSEL'S DIGEST

SB 1696, as amended, Dunn. National Guard: public peace.

Existing law provides that state and local law enforcement agencies are to enforce state law.

This bill would provide that, except in cases and under circumstances expressly authorized by the California Constitution or act of the Legislature, or instances of supporting state or federally authorized counterdrug programs, ~~any person who willfully uses any part of the Military Department as a posse comitatus or otherwise for civilian law enforcement purposes, including, but not limited to, surveillance;~~ *member of the Military Department, including the National Guard, who willfully engages in surveillance* is guilty of a misdemeanor punishable by imprisonment in a county jail not exceeding one year, or by a fine not exceeding \$50,000, or both.

By defining a new crime this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state.

Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 421 is added to the Penal Code, to read:  
2 421. (a) ~~Whoever, except in cases and under circumstances~~  
3 ~~expressly authorized by the California Constitution or act of the~~  
4 ~~Legislature, willfully uses any part of the Military Department,~~  
5 ~~including the National Guard, as a posse comitatus or otherwise~~  
6 ~~for civilian law enforcement purposes, including, but not limited~~  
7 ~~to, surveillance, is guilty of a misdemeanor punishable by~~ *Except*  
8 *in cases and under circumstances expressly authorized by the*  
9 *California Constitution or act of the Legislature, any member of*  
10 *the Military Department, including the National Guard, who*  
11 *willfully engages in surveillance is guilty of a misdemeanor*  
12 *punishable by imprisonment in a county jail for not more than*  
13 *one year, or by a fine of not more than fifty thousand dollars*  
14 *(\$50,000), or by both imprisonment and that fine.*  
15 (b) This section shall not apply to use of Military Department  
16 forces, including the National Guard, called upon by the  
17 Governor pursuant to Section 143 or 146 of the Military and  
18 Veterans Code or pursuant to any provision of the California  
19 Constitution or other statute expressly authorizing that activity.  
20 This section shall not apply to participation of Military  
21 Department forces in support of state or federally authorized  
22 counterdrug programs.  
23 SEC. 2. No reimbursement is required by this act pursuant to  
24 Section 6 of Article XIII B of the California Constitution because  
25 the only costs that may be incurred by a local agency or school  
26 district will be incurred because this act creates a new crime or  
27 infraction, eliminates a crime or infraction, or changes the  
28 penalty for a crime or infraction, within the meaning of Section  
29 17556 of the Government Code, or changes the definition of a

- 1 crime within the meaning of Section 6 of Article XIII B of the
- 2 California Constitution.

O